

COPY

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
JOHN O. MYERS,

4 Plaintiff,

5 -against-

6 HSBC INVESTMENTS (USA) INC; HSBC
7 NORTH AMERICA HOLDINGS INC.; HSBC
SECURITIES (USA) INC.; HSBC FINANCE
8 CORPORATION; and HSBC HOLDINGS PLC,

9 Defendants.

10 INDEX NO.: 2007 CIV. 04078 (RJH) (GWG)
-----x

11
12 30 Wall Street
13 New York, New York

14 February 20, 2008
15 11:03 a.m.

16
17 Deposition of NANCY WALSH, pursuant to
18 notice, before Peter Horn, a Notary Public
19 within and for the State of New York.

20
21
22
23 ELLEN GRAUER COURT REPORTING CO., LLC
24 126 East 56th Street, Fifth Floor
New York, New York 10022
25 212-750-6434
REF: 86782

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2

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25

1 ----- I N D E X -----

2 WITNESS EXAMINATION BY PAGE
 3 NANCY WALSH MR. FENSTERSTOCK 6

6 ----- DOCUMENT REQUESTS -----

7 PAGE 23 Production of any materials in the HR
 8 Department relative to Mr. Myers that
 9 has not been produced
 10 112 Production of all notes of any
 11 conversations that Witness had with
 12 Mr. Myers

15 ----- E X H I B I T S -----

16 PLAINTIFF'S DESCRIPTION FOR I.D.
 17 Exhibit 3 Summons and complaint 59
 18 Exhibit 28 Mr. Myers' termination
 19 letter 60
 20 Exhibit 64 Letter from Mr. Fensterstock
 21 to Thuy Nguyen regarding
 22 lawsuit 9
 23 Exhibit 67 E-Mail sent from Nancy
 24 Walsh to Jim Detmer 94

25

1	-----	E X H I B I T S (Cont'd)	-----
2	PLAINTIFF'S	DESCRIPTION	FOR I.D.
3	Exhibit 250	Printout from Recruitmax	
4		and other documents	118
5	Exhibit 251	Witness's summary of	
6		conversation with John	
7		Myers and Jim Detmer	
8		regarding John Myers'	
9		candidacy for the role	
10		of Investment Specialist	122

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12 (EXHIBITS RETAINED BY MR. FENSTERSTOCK)

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1 S T I P U L A T I O N S

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3 IT IS HEREBY STIPULATED AND AGREED
4 by and between the attorneys for the
5 respective parties herein that filing and
6 sealing of the within deposition be waived.

7 IT IS FURTHER STIPULATED AND AGREED
8 that all objections, except as to the form
9 of the question, shall be reserved to the
10 time of the trial.

11 IT IS FURTHER STIPULATED AND AGREED
12 that the within deposition may be signed
13 and sworn to before any officer authorized
14 to administer an oath with the same force
15 and effect as if signed and sworn to
16 before the Court.

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1 N A N C Y W A L S H,
2 residing at 468 Harding Road, Fair
3 Haven, New Jersey, having been first
4 duly sworn by the Notary Public
5 (Peter Horn), was examined and
6 testified as follows:

7 EXAMINATION BY

8 MR. FENSTERSTOCK:

9 Q. Good morning.

10 A. Good morning.

11 Q. My name is Blair Fensterstock, and
12 I represent Mr. Myers in this case against HSBC.
13 I am going to ask you some questions this
14 morning.

15 If there's anything I ask you which
16 is unclear, tell me and I will be glad to
17 rephrase it. If you think it's vague, tell me,
18 and I will rephrase it. If there's anything
19 that you don't understand that I ask you, tell
20 me and I will try to rephrase it so we both
21 understand it.

22 You have to answer orally. You
23 can't just shake your head, so the reporter can
24 take down your answers. Okay?

25 A. Okay.

1 WALSH

2 Q. State your name for the record.

3 A. Nancy Walsh.

4 Q. What is your address?

5 A. 468 Harding Road in Fair Haven, New
6 Jersey.

7 Q. What is your work address?

8 A. 452 Fifth Avenue, New York, New
9 York.

10 Q. Have you ever had your deposition
11 taken before?

12 A. Yes.

13 Q. How many times?

14 A. One time.

15 Q. In what case?

16 A. A personal injury case.

17 Q. Were you a witness or a party?

18 A. I was a party.

19 Q. Now, you are here pursuant to a
20 notice. Did you see the notice of deposition?

21 A. I don't believe I've ever seen the
22 notice, no.

23 Q. Are you represented by counsel
24 today?

25 A. Yes.

1 WALSH

2 aware that Mr. Myers has been denied "good
3 lever" status?

4 A. Correct.

5 Q. But you would agree with me that it
6 would be wrong for HSBC to deny Mr. Myers "good
7 lever" status because he filed an EEOC
8 complaint, correct?

9 A. I wouldn't think that was the
10 reason they denied him "good lever" status, and
11 I didn't handle his termination, so I don't know
12 of facts, what went into that decision.

13 Q. Well, you became involved with Mr.
14 Myers' complaint against HSBC in February or
15 March 2007, correct?

16 A. My involvement was very limited.

17 Q. And until you and I spoke about
18 "good lever" status relative to Mr. Myers a few
19 moments ago, you did not know whether HSBC has
20 denied Mr. Myers "good lever" status, correct?

21 A. That's correct.

22 Q. And you were not on a telephone
23 conversation in which Mr. Palmer said that
24 because Mr. Myers filed an EEOC complaint, he
25 would be denied "good lever" status, is that

1 WALSH

2 correct?

3 A. I don't remember that.

4 Q. You don't remember that?

5 A. I don't.

6 Q. Were you ever on a telephone call
7 with Mr. Palmer and anyone from this office?

8 A. I believe we had made a phone call
9 to this office regarding John Myers' COBRA, and
10 that all I remember.

11 Q. Tell me about that conversation.

12 A. I believe John's COBRA wasn't
13 affected or put in place. Rich had followed up
14 with me. We placed a phone call to this office
15 to discuss it: That was the extent of my
16 recollection of that phone call.

17 Q. Do you recall being on a phone call
18 on February 12, 2007 with this office in which
19 the letter that we looked at earlier, which was
20 Plaintiff's Exhibit 64, was discussed?

21 A. I can't recall if that was the date
22 and the specifics of what the conversation might
23 have been.

24 Q. But you do remember being on a call
25 with Richard Palmer and this office in which

WALSH

Plaintiff's Exhibit 64 was discussed?

A. Again, I only remember discussing the COBRA piece of it.

Q. But you remember being on the call where there were other things discussed?

A. The only thing I remember from that call was the COBRA.

Q. And you don't recall Mr. Palmer saying in that telephone call that there was nothing in the letter which was flatly wrong, correct?

A. I don't remember Rich saying that.

Q. And you don't recall being on that phone call where Mr. Palmer admitted that there was a mirror image group set up when Mr. Myers' group was terminated, correct?

A. Correct.

Q. But you do remember a discussion about COBRA in which Mr. Palmer admitted that HSBC had made a mistake in cutting off COBRA for Mr. Myers, correct?

A. I don't remember specifics from the conversation, but that would have been the context of what happened with COBRA, that it

1 WALSH

2 would have been a mistake that he would have
3 been cut off.

4 Q. So he shouldn't have been cut off,
5 correct?

6 A. Correct.

7 MR. FENSTERSTOCK: Do you want to
8 take a five-minute break?

9 MR. SPITZER: Yes, I think so.

10 THE WITNESS: That would be fine.

11 (A recess was taken.)

12 MR. FENSTERSTOCK: I would like to
13 mark as Plaintiff's Exhibit 3 the summons and
14 complaint in this case.

15 (Plaintiff's Exhibit 3 for
16 identification, summons and complaint in this
17 case.)

18 Q. Ms. Walsh, have you ever seen
19 Plaintiff's Exhibit 3 before?

20 A. No, I have not.

21 Q. And nobody's ever showed it to you?

22 A. No.

23 Q. And it's not in the HR file at HSBC
24 Investments, correct?

25 A. I don't know. I haven't reviewed

1 WALSH

2 correct?

3 A. I don't remember if his COBRA was
4 ever activated. I know that John complained
5 that it wasn't activated when he was using his
6 insurance.

7 Q. And you don't know whether HSBC
8 ever activated it?

9 A. I don't know if it was ever
10 activated.

11 Q. And you remember being on a phone
12 call, don't you, where Rich Palmer stated that
13 the restricted stock award that was going to be
14 released to Mr. Myers would not be released
15 because he had filed a claims against HSBC?

16 A. I don't remember that.

17 Q. If I suggest to you it was on April
18 25, 2007, does that refresh your recollection?

19 A. No. I still don't remember.

20 Q. Well, do you recall any
21 conversation where Mr. Palmer informed Mr. Myers
22 or Mr. Myers' representative that the restricted
23 stock award was not going to be released to Mr.
24 Myers unless he signed the separation agreement?

25 A. No, I don't remember that.

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WALSH

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A. I don't know.

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MR. FENSTERSTOCK: Thank you. I

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think we're done.

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MR. SPITZER: Thank you.

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(Time noted: 3:37 p.m.)

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A C K N O W L E D G M E N T

STATE OF)
) ss.:
COUNTY OF)

I, NANCY WALSH, hereby
certify that I have read the transcript of my
testimony taken under oath in my deposition;
that the transcript is a true, complete and
correct record of my testimony, and that the
answers on the record as given by me are true
and correct.

NANCY WALSH

Signed and subscribed to before
me, this day of ,
2008.

Notary Public, State of -----

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, PETER HORN, a Shorthand Reporter
and Notary Public within and for the State of
New York, do hereby certify:

That NANCY WALSH, the witness whose
deposition is hereinbefore set forth, was duly
sworn by me and that such deposition is a true
record of the testimony given by the witness.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 14th day of March, 2008.



PETER HORN